IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 296 OF 2005

IN

WRIT PETITION NO. 721 OF 2005

Indian Airlines Ltd. .. Petitioner

versus

V.N. Jalpur & Anr. .. Respondents

...

Mr.S.M. Dixit with V.M. Parkar i/b Chhaya Shah for the petitioner.

Mr.Mohan Bir Singh for the respondent no.1.

CORAM : D.G. KARNIK,J.

DATED : 20th July 2005.

P.C.:

1. Heard learned counsel for the parties.

2. The facts of this case are similar to the fact in Notice of Motion no.295 of 2005 in which order has been passed by me today. Hence, for the same reasons, this motion also needs to be allowed. The only point of distinction which is brought about

by the learned counsel for the petitioner is that the applicant respondent is not staying in India and is staying in the United States as admitted by him in paragraph no.9 of the affidavit in support of the motion itself. He therefore submits that the discretionary order need not be passed in his favour as he is staying in the United States. Learned counsel submits that the applicant is not expected to live in United States at the mercy of his brother in law. Submission is accepted The payment of the money would be conditional upon the applicant returning to India and file an affidavit of his return in India in this Court. In the circumstances, I pass the following order:-

3. The petitioner is directed to pay a sum of Rs.3,897.55 p.m. being the basic salary excluding the allowances to the applicant on and with effect from the date of the return of the applicant to India. The applicant shall file an affidavit of his return to India in this Court and serve a copy thereof on the petitioner. The order for payment shall become effective on service of such copy. Payment shall be made on or before 10th day of every successive month.

D.G. KARNIK, J